

# Kelley Drye Represents Bacardi in Winning Havana Club Rum Dispute in Court

April 12, 2010

- \* Court Reaffirms Bacardi USA Ownership and Proper Use of HAVANA CLUB Rum Trademark and Bottle Descriptor
- \* Court Rejects Allegations of Geographically Misleading Packaging
- \* Bacardi Has the Right to Advertise the Cuban Heritage of Its HAVANA CLUB Rum
- \* Bacardi Continues to Sell HAVANA CLUB Rum in the United States

A U.S. district court ruled the origin of Bacardi's HAVANA CLUB rum is geographically descriptive as it clearly states on the front to the bottle the rum is of Puerto Rican origin and is based on the original Cuban recipe as created by the family of Jose Arechabala. The acid-etched bottle - which clearly states in bold, black lettering that the rum is Puerto Rican rum - is encircled by art-deco fluting and a retro typeface that recalls Havana in its heyday.

On April 6, the Wilmington, Delaware district court ruled that the origin of Bacardi's HAVANA CLUB rum is geographically accurate as the bottle clearly states Puerto Rican Rum and that it is based on the original Cuban recipe as created by the family of Jose Arechabala.

U.S. District Judge Sue Robinson decided that Bacardi's HAVANA CLUB rum "has a Cuban heritage," derived from a family recipe first used in Cuba around 1930. In her 22-page ruling, Judge Robinson also found that because Bacardi's labels "truthfully (and prominently)" show that its rum is "distilled and crafted in Puerto Rico," its labeling is "neither false nor misleading." The Judge also recognized that Bacardi "acquired any remaining rights to Havana Club, as well as the recipe from the Arechabala family. The First Amendment protects Bacardi's ability to accurately portray where its rum was historically made." Judge Robinson also wrote Pernod Ricard USA showed "no evidence that today's Havana Club rum product differs from the original pre-revolutionary Cuban rum in any significant respect."

Bacardi purchased the rights to the HAVANA CLUB trademark from the creators and original owners, the Arechabala family, who made their rum in Cuba from the 1930s until 1960 and exported it to the United States and other countries until their rum-making facilities and personal assets were seized without compensation during the Cuban revolution.

To date, Bacardi has won all U.S. court cases relating to the rights to use the HAVANA CLUB brand, up to the U.S. Supreme Court.

This last case was extensively covered in major news outlets:

[\*The Wall Street Journal\*](#)

[\*The South Florida Business Journal\*](#)

Bacardi was represented by Partner William Golden.